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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/404,729	09/24/1999	ANDREW A. BERLIN	D/99612Q5	8725

25453 7590 05/23/2003

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ROCHESTER, NY 14644

EXAMINER

ELISCA, PIERRE E

ART UNIT PAPER NUMBER

3621

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/404,729

Applicant(s)  
Andrew A. Berlin

Examiner  
Pierre E. Elisca

Art Unit  
3621



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 3/15/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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**DETAILED ACTION**  
**RESPONSE TO AMENDMENT**

1. This Office action is in response to Applicant's amendment filed 03/17/2003.
2. Claims 1-9 are pending.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 are rejected under 35 U.S.C. 102 (b) as being anticipated by Abelow (U.S. pat. No. 5,999,908).

As per claims 1-9, Abelow discloses a product or service that contains a microprocessor and a facility for communication, comprising:

multiple actuators, each of the multiple actuators having an actuator controller that is responsive to price information applied force (see., col 2, lines 13-27, specifically wherein it is stated that multiple actuators or computer hardware, software and communications technologies to construct a module that is built into certain products and services, to establish a network);

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a sensor for measuring structure movement (see., col 1, lines 56-67, col 2, lines 1-5, productivity measures is readable as a sensor) and;

a marketwire connected to each actuator controller to convey price information to the actuator controllers by analog variations in electrical characteristics of the marketwire (see., col 76, lines 61-65, specialized feedback systems may also provides price information, col 70, lines 60-11).

#### **RESPONSE TO ARGUMENTS**

5. Applicant's arguments filed 03/17/2003 have been fully considered but they are not persuasive.

#### **REMARKS**

6. In response to claims 1-9, Applicant argues that the prior art of record taken alone or in combination does not teach or suggest:

a. "a control assembly for controlling structures, wherein the structure is a physical in nature, e.g a robotic arm or a beam". However, the Examiner respectfully disagrees because the claims (1, 4 and 7) do not recite "a robotic arm or a beam", and therefore, the structure can be interpreted as any structure.

b. "Multiple actuators". As indicated above, multiple actuators is interpreted as a combination of computer hardware, software and communications technologies to construct a module that is built into

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certain products and services, to establish a network of customer-vendor-distributor interactions and communications.

### **CONCLUSION**

**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**8.** Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM to 5:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

**~~Any response to this action should be mailed to:~~**

Commissioner of Patents of Trademarks

Application/Control Number: 09/404,729

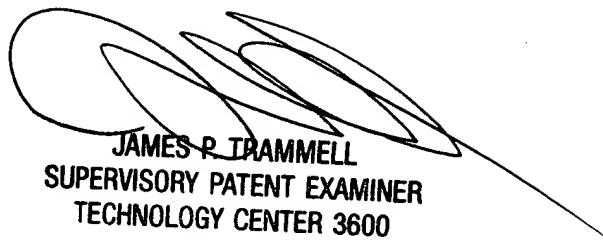
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Washington, D.C. 20231

The Official Fax Number For TC-3600 is:

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JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600



Pierre Eddy Elisca

Patent Examiner (Art Unit 3621)

May 21, 2003

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